

IN THE UNITED STATES DISTRICT COURT
FOR WESTERN DISTRICT OF PENNSYLVANIA

ABUBAKA A HAQQ
PLAINTIFF.

VS

WILLIAM J WOLFE, et al.
Defendants.

Civil Action No. 03-27 (EME)

District Judge McLaughlin
Magistrate Judge Barker
Objection to Magistrate
Judge Report and Recommendation

① Objection to Magistrate Judge Report and Recommendation
AND NOW - Come Plaintiff MR. Haqq on this 1st day of August 2005:
objecting to the following: Recommendation, Report,
Plaintiff Abubaka A. Haqq received order from this
Honor Court: informing him that his Eighth
Amendment Right: Claim were dismissed
and that defendant: also move for Summary judgement
and dismissal of Document ~~14~~¹⁵ be Granted:

MR. Haqq is currently serving time at Alhion
State Prison Correctional Institution,
of Pennsylvania, MR. Haqq file a Civil Action Law Suit,
for Violations by Former Superintendent Wolfe.
and Ther Counsel David Verman.

2) Defendant should submit medical records as requested by Plaintiff so that show Eighth Amendment claim will be granted. Plaintiff file motion to have Eighth Amendment claim sustain, because this Court did in fact sustain the motion for Eighth Amendment. Providing medical records.

Thus this shows. Prejudice on behalf of the

Court 1) Pro/Se Pleading;

Pro/Se pleading "however inadequately pleaded" must be held to "less stringent standards than Fomar Pleading drafted by lawyers" and can only be dismissed for failure to state a claim if it appears "beyond a doubt" that Plaintiff can prove no set of facts in support of his claims which would entitle him to relief. See Clayton v. Kerner, 404 U.S. 519, 520-521 (1972) quoting Conley v. Gibson, 353 U.S. 41, 45-46 (1957) if the Court can reasonably read a Pleading to state a valid authority Confusion of legal theories

Eighth Amendment

(2)

Mental Anguish, and grief, pain and Suffering in most
 Case does lead to depression, - depression lead to poor
 health, and in most Case which will lead to suicide:
 Cognitive ability. To be able. To make good and sound.
 decision: is very important for a healthy mind. You
 take that away, what will you have, "Nothing". I'll
 for that person. To need a Sound like, and productive
 one; in his or her Community: So! for judges to make
 poor Ruling: and bad judgement, in Cases as in this one
 Show Prejudice to ward: The Plaintiff in this Case. Plaintiff
 did sustain a physical injury, and file a motion for medical
 records: during this time of the Case, and the motion was
 denied. So we are seeing much prejudice here in this
 Case, Verency In-ward the defendants work:
 Their Attorney has lied in the past and said "we don't
 know where Mr Wolfe is" Central Office Camp Hill, said,
 also "we have know knowledge, of Mr Wolfe where about."
 and this Court Brought this, never held Mr Wolfe.
 in Contempt of the Court, for refusing to comply
 with the Rules of Court, and Interrogatories. For
 Discovery: its a Shame to see Federal Magistrate and
 District Judges Abusing the law as has been illustrated
 in this her Case. hagg v Wolfe. See Estelle v. Gamble

(3)

Eighth Amendment Claim:

"Our Cases have held that Prison officials violates the Eighth Amendment only when two requirements are met."

The First prong consists of a judicial examination into the objective Component of the Eighth Amendment.

Farmer, 541 U.S. at 834.

Prisoners claiming Eighth Amendment violations must prove that they are either deprived of "the minimal civilized measure of life necessities" such as essential food, clothing, medical care and sanitation. Now, even though, these essential things were met for

Plaintiff, still assuming that confinement conditions are sufficiently serious enough to trigger Eighth Amendment scrutiny, the inquiry then turns to the subjective Component which requires Prisoners to show a sufficiently culpable state of mind on the part of responsible prison officials. See Wilson v. Greer, 501 U.S. 294, 297, (1991)

To Conclusion, the proper analysis of Eighth Amendment challenges to prison conditions involves both an objective and subjective Component; the conditions complained of must be objectively serious, and the officials responsible for those conditions must be subjectively culpable.

The Supreme Court has not yet formulated a specific test to determine the medically-related Constitutional rights of pretrial detainees, but has stated that these rights are at

least as great as the Eighth Amendment Protections available to a convicted Prisoner. See City of Revere v. Massachusetts General Hospital, 463 U.S. 239, 240 (1983); Applying this rationale, the Third Circuit has agreed that the Estelle Standard applies to pretrial detainees, holding that deliberate indifference to serious medical needs violates the Due Process Clause of the Fourteenth Amendment. See Boriv v. Kozakiewicz, 833 F.2d 468, 472 (3d Cir 1987); Brown v. Borough of Chambersburg, 903 F.2d 274, 278 (3d Cir 1990). Before proceeding with our

Estelle analysis, it should be pointed with our Estelle

that the deliberate indifference standard applies to serious mental or emotional illnesses, as well as physical needs See.

Inmates of Allegheny County Jail v. Pierce, 612 F.2d 754, 763 (3d Cir 1979) ("Although most challenges to prison medical treatment have focused on the alleged deficiencies of medical treatment for physical ills, we perceive no reason why 'psychological or psychiatric care should not be held to the same standard.'") Bowring v. Godwin, 551 F.2d 44, 47 (4th Cir 1977) (we see no underlying distinction between the right to medical care for physical ills and its psychological or psychiatric counterpart").

The Prison Litigation Reform Act
The Exhaustion Requirement

Defendants argue, *inter alia*, that summary judgment should be granted because Plaintiff has failed to exhaust his administrative remedies in accordance with the Prison Litigation Reform Act.

The Prison Litigation Reform Act ("PLRA") 42 U.S.C. 1997(a) provides:

no action shall be brought with respect to prison conditions under Section 1983 of this title by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted; The requirements that an inmate exhaust administrative remedies applies to all inmate suits regarding prison life, including those that involve general circumstances as well as particular episodes. Porter v Nussle, 534 U.S. 510 (2002). See also Concepcion v Morton, 306 F.3d 1347 (3d Cir. 2002) (for his type of exhaustion requirement). Must be completed prior to the filing of an action. McCarthy v Madigan, 523 U.S. 140, 144 (1992).

Thus, Federal Courts are barred from hearing a claim if a plaintiff has failed to exhaust all the available remedies: Grimsley v. Rodriguez, 113 F.3d 1246 (Table), 1997 WL 2356136 (unpublished opinion)

(10th Cir. May 8, 1997) A plaintiff need not affirmatively plead,

importantly, a plaintiff's failure to exhaust his administrative remedies, does not deprive the district court of subject matter jurisdiction. Nyhaus v. Reno, 204 F.3d 65, 69 n.4 (3d Cir 2000)

We agree with the clear majority of Courts that 1997e(a) is not a jurisdictional requirement, such that failure to comply with the Section would deprive Federal Courts of subject.

Exhaustion, but exhaustion is an affirmative defense, which is waived if not properly presented by a defendant, see Ray v. Kenton, 285 F.3d 287 (3d Cir 2002) (holding that

"no provision of the P.L.R.A. requires pleading exhaustion with particularity", while constraining the P.L.R.A. requirement in light of the recent Supreme Court decision in Swick v. Soreman N.A. 534 U.S. 506 (2002).

PRISON LITIGATION REFORM ACT OF

1995

ON April 26, 1996, President Clinton Signed into Law The Prison Litigation Reform Act of 1995 ("PLRA"). Although its legislative rights jurisprudence is immense. Hence forward, every prisoner inflated 1983 lawsuit challenging Prison Conditions must comply with the exhaustion, filing and relief requirements of the PLRA or be dismissed. In addition the PLRA limits the remedial power of Federal Judge to correct unlawful conditions even if a prisoner proves his case.

The PLRA was designed to achieve two goals: First Curtail the number of frivolous Prisoner Suits flooding the Federal Courts. Second, restrict the power of Federal judges to order prospective relief in Conditions-of-Confinement Cases. See McCoy v. Gilbert, 270 F.3d 503, 509 (7th Cir 2001). One of the PLRA's primary purposes is to enable prison officials to resolve complaints internally and to limit judicial intervention in the management of State and Federal Prisons." Abdul-Akbar v. McKeivie, 239 F.3d 307, 312 (3d Cir 2001) (en banc) (stating that Congress enacted the PLRA "largely in response to concerns about the heavy volume of frivolous prisoner litigation in the federal courts"); Free man v. Francis, 196 F.3d 641, 644 (6th Cir 1999) (the PLRA was passed to reduce frivolous Prisoner Lawsuits and to reduce the intervention of Federal Courts into the management of the nation's prison system")

So, material The Court must look for undisputed facts in this case. Material fact is one that might affect the outcome of the suit under the governing law....

...Factual disputes that are irrelevant or unnecessary will not be counted. See Anderson v. Liberty Lobby, Inc. 477 U.S. 242, 248 (1986). See Gary v. York Newspapers

Inc., 987 F.2d 1070, 1078 (3d Cir. 1992) "genuine" issue exists if the evidence is such that a reasonable jury could return a verdict for the nonmoving party.

In determining whether there is a genuine issue of material fact, the court must view all facts and all reasonable inferences in favor of the nonmoving party. See Matsushita Electric Industrial Co. Ltd. v. Zenith Radio Corp. 495 U.S. 574, 587, 106 S.Ct. 1348 (1986)

Plaintiff attached Exhibit with his Amended Complaint listing where he did in fact exhaust Administrative Remedies

Noting A. Date Filing Grievance	4/5/03	Show the Complaint The P.L.R.A. Act.
Review Date	4/10/2003	
Answer Date	4/20/2003	
Appeal Date	4/24/2003	
Camp Hill Date	8/14/2003.	

When we review this statement by Grievance Coordinator from

The Final need of Exhaustion, we see Prejudice on behalf of Central office staff, knowing that Plaintiff had in fact exhausted administrative remedies and this is how those people make leadership

For every inmate who is bringing Section 1983 against the Department of Correction. D.C.C. according to documents 44# & Attachment "Plaintiff may have technically exhausted states remedies technically." and this is a lie and incorrect. For these people to even mention. My finding is every prisoner filing Section 1983 knows that P.L.R.A. Act is very very important for him or her. Because the standard is always use by attorneys for D.C. Department of Correction. Attorney General all way more for dismiss due to failure to exhaust administrative remedies.

First Attorney for Mr. Wolfe more for Eighth Amendment. Claims to be removed. and this Court has said that for them Attorney General, gets what ever they want, so! why are we having this trial. seem to me its been already prejudged on behalf of Attorney General to win this case. Plaintiff only motion for his medical records. Judge Susan Parrish Baxter. Then Granted the motion and later denied my motion. Mr. Hagg, has sent forward in discovery documents of Correspondence from Mr. Hagg, Sister and Sister Employer, that was sent to Mr. Wolfe and the exhibit Mr. Hagg submitted to this Court if there judges is reading any documents from Plaintiff, you will indeed find that you asking this Court to sample read Plaintiff records. and you will seek justice! Thank you!

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA

ABUBAKA A HAQQ
Plaintiff

v
William J. Wolfe et al
Defendant

Civil Action NO - 03 - 277 (Encl)
First District Judge: Mr. DenBalthus
Magistrate Judge BAXTER.
objection to Magistrate
Judge Report Recommendation

Certificate of Service

— Certifying That a True and Correct Copy of
The within Objection to Magistrate Report Recommendation -
To The Following First Class Mail via

Thank you

Respectfully Submitted

Abubakar A. Haqq

Pro 18-E JK433

Date: 8/5/2005

COMMONWEALTH OF PENNSYLVANIA
ALBION STATE PRISON of Correctional
July 29th 2006

ABUBAKA A. HAQQ
PRO/SE DK4133

ABUBAKA A. HAQQ
10745 ROUTE 18
ALBION PA 16475-0002

Clerk Office
United States District Court
For the Western District of
PENNSYLVANIA P.O. BOX 1820
ERIE PENNSYLVANIA, 16507.

Re Haqq v. Wolfe.
Civil Action No-03-277(Erie).

Dear / Sir Madam

Please file the enclosed Motion for Objection
to Magistrate Judge, Report and Recommendation, relative
to the above Caption Matter.

Thank you.

Respectfully Submitted



ABUBAKA A. HAQQ DK4133 / PRO/SE